

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2035 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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R. A. JODDHA

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR RJ OZA for Petitioner

MR NN PANDYA for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/07/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner, who is working as a clerk in the office of respondents, filed this Special Civil Application before this Court in which challenge has been made to the orders

dated 5.1.82, 8.4.82 and 20.4.82 (annexure 'C'). The grievance of the petitioner is that under the aforesaid orders, he was ordered to be reverted from the post of work charged clerk to Chowkidar.

2. The facts as well as points raised in this Special Civil Application need not be taken in detail as other two identical matters, Special Civil Applications No.318 of 1982 and 429 of 1982 have already been decided by this Court and this writ petitioner has to be disposed of as per the decision given by this Court in the aforesaid two matters. At page No.3, of this writ petition, the petitioner has himself made statement which reads as under:

"The petitioner states that similarly situated clerks whose services were sought to be reverted by the impugned order of the Section Officer, Irrigation Department, Sachivalaya, Gandhinagar dated 5.1.1982 have filed Special C.A. No.318/82 and 429/82. At the time of admission, notice was issued by this Hon'ble High Court and ad interim relief directing the respondents not to implement and execute the order reverting the petitioners and further directing the respondents to permit the petitioners to hold the post of Clerks and draw salaries accordingly, was granted by this Hon'ble High Court. Both the above referred petitions were placed for admission before His Lordship N.H. Bhatt, J, on 4.3.1982 and after hearing the parties, His Lordship was pleased to issue Rule and confirmed the ad interim relief granted at the earlier point of time in both the petitions."

In those writ petitions, Shri R.J. Oza was the counsel for the petitioner. The order of reversion of the petitioners was stayed by this Court for all these years and the same still continues. The counsel for the petitioners in those writ petitions has withdrawn the applications in terms of order passed by this Court in the aforesaid two applications on 13th December 1993. Withdrawal has been made for the reason that in affidavit-in-reply filed on behalf of respondents, it appears that there was unification of cadre known as work

charged assistants and the persons working as Karkoon/Mistri (Carpenter), Canal Inspectors, were included therein. In view of this unification of the cadre, the petitioner is working as work charged assistant. In the said unification, there is no rider

that the petitioners are given cadre of work charged assistants by reserving condition that this cadre will be subject to the result of this writ petition. Shri Oza, learned counsel for the petitioners appearing in those matters, contended that in view of aforesaid reply, he does not press those petitions, but seeks clarification that as there is no rider, the orders must have been passed in due course. The Court has observed on this that "it goes without say that no condition is imposed, and therefore it cannot be said that the orders are subject to the result of the petition". In this writ petition, affidavit-in-reply has been filed on behalf of respondents. In para-2 of the said reply, it has been stated as under:

"Two affidavits are being made by me in Special Civil Application Nos. 318/82 and 429/82. The facts and circumstances of this case are to the said S.C.A. Nos. 318/82 and 429/82. I therefore, substantially and for practical purposes adopt the affidavit in the said S.C.A. Nos.318/82 and 429/82 as the affidavit in this case."

Thus in this Special Civil Application, same reply has been given by respondents as given in the aforesaid two petitions.

3. In the result, this writ petition is permitted to be withdrawn. Rule is discharged. Ad-interim relief granted by this Court stands vacated. No order as to costs. However, liberty is given to the petitioner in case of any difficulty, to approach this Court.

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(sunil)